

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7298 OF 2006

Durgambhag Shikshan Prasarak Mandal Petitioner
V/s.
Education Officer (Secondary)
Zilla Parishad, Kolhapure & Ors. Respondents

Mr.S.V. Sadavarte for the Petitioner.
Mr.P.P. Kakade, AGP for Respondent Nos.1 to 3.
Mr.P.D. Dalvi for Respondent No.4.

CORAM : F.I. REBELLO &
S.J. VAZIFDAR, JJ.
DATED : 12TH FEBRUARY, 2007.

P.C. :

1. This is the third round of litigation. In the second round, Respondent No.4 approached this Court against that action of the State Government. It was the case of Respondent No.4 that pursuant to an advertisement for opening new school they had applied. Their proposal was sanctioned but thereafter stayed in view of the complaint made by the Petitioner herein. Respondent No.4 herein filed the Writ Petition being Writ Petition No.8712 of 2004 before this Court which was disposed of by an order dated 29.10.2004. The Petition was allowed consequent whereof the matter was required to be heard once again. The effect of the order of the Court was that the recognition given to

Respondent No.4, the Petitioner in Writ Petition No.8712 of 2004 was accepted.

2. It appears that thereafter the Petitioner moved an application for recognition which is objected to by the Petitioner herein. Respondent No.4's application it appears was not being considered as maintainable. The Petitioner herein had applied and the District Committee has proposed. In the context of that, we directed Respondent No.4 herein to make a fresh representation and permitted both Respondent No.4 and the Petitioner herein to be heard by the Secretary, Secondary Education in the matter of recognition. The Secretary after hearing both the parties has been pleased to hold that the application of Respondent No.4 was earlier in point of time and permission be granted to them. This order is the subject matter of this present Petition.

3. At the hearing of the Petition, learned counsel for the Petitioner submits that their application was in fact earlier in point of time. There is no material produced before us nor was any material produced before the Secretary to that effect. On the material produced the Secretary has recorded a finding of fact that the application by Respondent

No.4 was earlier in point of time and consequently has granted recognition to Respondent No.4. The Petitioner has not challenged that finding as perverse and or based on no material. That being the fact as the application of Respondent No.4 was before the application made by the Petitioner, no interference is called for in the exercise of our extra-ordinary jurisdiction under Article 226 of the Constitution of India. Hence the Writ Petition stands disposed of.

(S.J. VAZIFDAR, J.)

(F.I. REBELLO, J.)